

(g) Deny the facilities and services afforded by the Wagner-Peyser Act to any farm labor contractor who refuses or fails to produce, when asked, a valid Certificate of Registration;

(h) Institute action in any appropriate United States District Court against any person who, contrary to the provisions of section 505(a) of the Act, discriminates against any migrant or seasonal agricultural worker.

§ 500.141 Concurrent actions.

The taking of any one of the actions referred to in § 500.140 shall not be a bar to the concurrent taking of any other action authorized by the Act and these regulations.

§ 500.142 Representation of the Secretary.

(a) Except as provided in section 518(a) of title 28, U.S. Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under the Act; but all such litigation shall be subject to the direction and control of the Attorney General.

(b) The Solicitor of Labor, through the authorized representatives identified in § 500.231, shall represent the Secretary in all administrative hearings under the Act and these regulations.

§ 500.143 Civil money penalty assessment.

(a) A civil money penalty may be assessed for each violation of the Act or these regulations.

(b) In determining the amount of penalty to be assessed for any violation of the Act or these regulations the Secretary shall consider the type of violation committed and other relevant factors, including but not limited to the following:

(1) Previous history of violation or violations of this Act and the Farm Labor Contractor Registration Act;

(2) The number of workers affected by the violation or violations;

(3) The gravity of the violation or violations;

(4) Efforts made in good faith to comply with the Act (such as when a joint employer agricultural employer/association provides employment-related

benefits which comply with applicable law to agricultural workers, or takes reasonable measures to ensure farm labor contractor compliance with legal obligations);

(5) Explanation of person charged with the violation or violations;

(6) Commitment to future compliance, taking into account the public health, interest or safety, and whether the person has previously violated the Act;

(7) The extent to which the violator achieved a financial gain due to the violation, or the potential financial loss or potential injury to the workers.

[48 FR 36741, Aug. 12, 1983, as amended at 62 FR 11748, Mar. 12, 1997]

§ 500.144 Civil money penalties—payment and collection.

Where the assessment is directed in a final order by the Secretary or in a final judgment issued by a United States District Court, the amount of the penalty is immediately due and payable to the United States Department of Labor. The person assessed such penalty shall remit promptly the amount thereof, as finally determined, to the Secretary by certified check or by money order, made payable to the order of "Wage and Hour Division, Labor." The remittance shall be delivered or mailed either to the Administrator, in Washington, DC, or to the Wage and Hour Division Regional Office for the area in which the violations occurred.

§ 500.145 Registration determinations.

Section 500.51 set forth the standards under which the Secretary may refuse to issue or to renew, or may suspend or revoke, a Certificate of Registration (including a Farm Labor Contractor Employee Certificate of Registration).

§ 500.146 Continuation of matters involving violations of FLCRA.

(a) Any matter involving the revocation, suspension, or refusal to renew a Certification of Registration issued under FLCRA and any matter involving the refusal to issue a certificate authorized under FLCRA shall continue

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through final administrative determination in accordance with the provisions of FLCRA and the regulations issued thereunder.

(b) Any matter involving the assessment of a civil money penalty for a violation of FLCRA will continue through final administrative determination in accordance with the provisions of FLCRA and the regulations issued thereunder.

(c) The rules of practice for implementation of administrative enforcement for violations of FLCRA referred to the Office of the Chief Administrative Law Judge on or after April 14, 1983, shall be the rules of practice provided in §§ 500.220 through 500.262 and the official record shall be maintained in accordance with §§ 500.270 and 500.271 of these regulations.

(d) The rules of practice for implementation of administrative enforcement for violations of FLCRA referred to the Office of the Chief Administrative Law Judge prior to April 14, 1983 shall be the rules of practice provided in 29 CFR 40.201 through 40.262.

§ 500.147 Continuation of matters involving violations of section 106 of MSPA.

Any matter involving the revocation, suspension, refusal to issue or to renew a certificate of registration or any matter involving the assessment of a civil money penalty, for a violation of section 106 of MSPA, which occurred prior to June 1, 1987, shall continue through final administrative determination in accordance with the provisions of MSPA and these regulations.

[54 FR 13329, Mar. 31, 1989]

AGREEMENTS WITH FEDERAL AND STATE AGENCIES

§ 500.155 Authority.

Section 513 of the Act authorizes the Secretary to enter into agreements with Federal and State agencies (a) to use their facilities and services, (b) to delegate (subject to subsection 513(b) of the Act) to Federal and State agencies such authority (other than rule-making) as he determines may be useful in carrying out the purposes of the Act, and (c) to allocate or transfer funds to, or otherwise pay or reim-

burse, such agencies for expenses incurred pursuant to paragraphs (a) or (b) of this section.

§ 500.156 Scope of agreements with Federal agencies.

Every agreement between the Secretary and any other Federal agency under the authority referred to in § 500.155 of this part shall contain terms and conditions mutually agreeable to both parties, and shall contain such delegation of authority as the Secretary deems useful.

§ 500.157 Scope of agreements with State agencies.

(a) Every agreement between the Secretary and any State agency under the authority referred to in § 500.155 of this part shall be in writing.

(b) Any delegation to a State agency by the Secretary under such authority shall be made pursuant to approval of a written State plan submitted in accordance with § 500.159 which shall: (1) Include a description of each function to be performed, the method of performing each such function, and the resources to be devoted to the performance of each such function, (2) provide assurances satisfactory to the Secretary that the State agency will comply with its description under paragraph (b)(1) of this section and that the State agency's performance of the delegated functions will be at least comparable to the performance of such functions by the Department of Labor; and (3) contain a certification of the Attorney General of such State, or, if the Attorney General is not authorized to make such a statement, the State official who is so authorized, that an agreement pursuant to such State plan is valid under the laws of that State.

§ 500.158 Functions delegatable.

The Secretary may delegate to the State such functions as he deems useful including the

- (a) Receipt, handling and processing of applications for certificates of registration;
- (b) Issuance of certificates of registration;
- (c) Conduct of various investigations; and
- (d) Enforcement of the Act.